

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
EASTERN DIVISION**

JUANITA La NETT McKENZIE,

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Plaintiff,

\*

v.

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No. 2:18cv00101-SWW-JJV

\*

NANCY A. BERRYHILL,

\*

Acting Commissioner of Social Security,

\*

\*

Defendant.

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**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

This recommended disposition has been submitted to United States District Judge Susan Webber Wright. The parties may file specific objections to these findings and recommendations and must provide the factual or legal basis for each objection. The objections must be filed with the Clerk no later than fourteen (14) days from the date of the findings and recommendations. A copy must be served on the opposing party. The district judge, even in the absence of objections, may reject these proposed findings and recommendations in whole or in part.

**RECOMMENDED DISPOSITION**

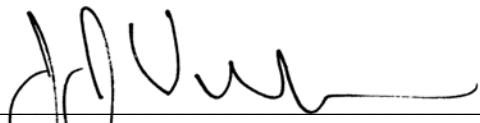
Juanita La Nett McKenzie ("Plaintiff") filed this action on July 16, 2018, appealing the final decision of the Commissioner of Social Security to deny her claim for disability insurance benefits after November 1, 2011. (Doc. No. 1.) Because no proof of service was filed, I entered an Order on October 16, 2018, directing Plaintiff to file proof of service by November 15, 2018. (Doc. No. 3.) On November 15, 2018, Plaintiff's counsel requested additional time. (Doc. No. 4.) I granted an extension to December 14, 2018. (Doc. No. 5.) On January 2, 2019, Plaintiff's counsel again requested additional time, and I granted an extension to January 23, 2019. (Doc.

Nos. 6-7.) No proof of service was filed. On January 28, 2019, I entered an Order noting Plaintiff's Complaint was subject to dismissal. (Doc. No. 8.) I directed Plaintiff to file proof of service by February 28, 2019, with no further extensions forthcoming. (*Id.*) That deadline has passed, and Plaintiff has not filed proof of service. Her Complaint was filed over seven months ago.

Pursuant to Federal Rule of Civil Procedure 4(l)(1), proof of service must be made to the court unless service is waived. And in accordance with Rule 4(m), dismissal is warranted if a defendant is not served within ninety (90) days after the complaint is filed. *See also Norsyn, Inc. v. Desai*, 351 F.3d 825, 830-31 (8th Cir. 2003). Plaintiff has failed to serve the defendant in this case and make proof of service to the Court, despite being granted multiple extensions of time. Accordingly, I must recommend her Complaint be dismissed without prejudice.

IT IS, THEREFORE, RECOMMENDED that Plaintiff's Complaint (Doc. No. 1) be DISMISSED without prejudice.

DATED this 4th day of March 2019.

  
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JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE